

REMARKS

In the Office Action¹, the Examiner provisionally rejected claim 29 on the grounds of nonstatutory obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 6,741,288 and rejected claims 29 and 30 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,978,471 to Klopfenstein ("Klopfenstein").

By this amendment, Applicant has amended claims 29 and 30 to further clarify the present invention. Claims 29 and 30 remain pending and under current examination.

I. Double Patenting Rejection

Applicant traverses the provisional double patenting rejection of claim 29. Claim 29 is patentably distinguishable over claim 1 of U.S. Patent No. 6,741,288. To advance prosecution, however, and without acceding to the grounds for the Examiner's rejections, Applicant concurrently files a Terminal Disclaimer with respect to U.S. Patent No. 6,741,288, and respectfully requests that the Examiner withdraw the provisional double patenting rejection.

II. Rejection under 35 U.S.C. § 102(e)

Applicant respectfully traverse the Examiner's rejection of claims 29 and 30 under 35 U.S.C. § 102(e) as being anticipated by Klopfenstein. In order to properly establish that Klopfenstein anticipates Applicants' claimed invention under 35 U.S.C. § 102(b), each and every element of each of the claims in issue must be found, either expressly described or under principles of inherency, in that single reference.

¹ The Office Action contains a number of statements reflecting characterizations of the related art and the claims. Regardless of whether any such statement is identified herein, Applicant declines to automatically subscribe to any statement of characterization in the Office Action.

Furthermore, “[t]he identical invention must be shown in as complete detail as is contained in the ... claim.” See M.P.E.P. § 2131, quoting *Richardson v. Suzuki Motor Co.*, 868 F.2d 1126, 1236, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989).

Klopfenstein fails to teach each and every element recited in amended independent claim 29. Claim 29 recites a method for “maintaining a database” for “display of digital television broadcast signals carried by a digital broadcast stream.” The digital broadcast stream is specified to contain “system control data” and the system control data is specified to include “first information relating to an ATSC broadcast standard” and “second information relating to an MPEG-2 broadcast standard.” Claim 29 then recites a combination of steps involving the system control data, the first information, and the second information; the combination of steps comprising the claimed method.

The Examiner has alleged that Klopfenstein teaches a method anticipating claim 29. In particular, the Examiner points to Col. 5, lines 63-67; Col. 6, lines 1-2; and Col. 6, lines 8-14 as a teaching of the claimed first and second information. The Examiner, thus, apparently asserts that the two separate sources of Klopfenstein, e.g., digital PSIP guide and digital MPEG PSI guide, constitute the “first information relating to an ATSC broadcast standard” and “second information relating to an MPEG-2 broadcast standard” of claim 29, respectively. Since the digital PSIP guide and the digital MPEG PSI guide can be extracted from processor 60, presumable the Examiner is asserting that the digital PSIP guide and the digital MPEG PSI guide constitute the claimed “system control data.” However, this is not correct.

Klopfenstein states that “processor 60 . . . directs system 20 to attempt to acquire a digital PSIP guide conveyed on [a] terrestrial broadcast channel. If processor 60 is successful, it stores the PSIP guide . . . If acquisition of a PSIP guide was unsuccessful . . . processor 60 determines if the received broadcast channel is analog . . . If the received broadcast channel is not analog (step 225), processor 60 [then] attempts to acquire a digital MPEG PSI guide” (emphasis added). See Klopfenstein, Col. 5, line 63 to Col. 6, line 14.

Claim 29 specifies that the first information and the second information are both included in system control data of the digital broadcast stream. In contrast, the digital PSIP guide and the digital MPEG PSI guide of Klopfenstein, alleged by the Examiner to constitute the claimed first and second information, are not both contained in the digital broadcast stream. Thus, the digital PSIP guide and the digital MPEG PSI guide in Klopfenstein cannot constitute the claimed “first . . . and second information.” Accordingly, Klopfenstein fails to disclose a combination including at least the claimed method steps relating to first and second information. For at least these reasons, Klopfenstein does not anticipate independent claim 29.

Independent claim 30, although of different scope, contains elements similar to those highlighted above for claim 29 and, therefore, is also allowable over the prior art of record, for at least the reasons discussed above with respect to claim 29.

III. Conclusion


In view of the foregoing amendments and remarks, Applicant respectfully requests reconsideration and reexamination of this application and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

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